

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re)	
)	
FALCON PRODUCTS, INC.,)	
a Delaware corporation, et al.,)	
)	
Debtors,)	
_____)	
FALCON CREDITOR TRUST,)	Lead Case
)	No. 4:07-CV-1901 CAS
Appellant,)	
)	
v.)	
)	
FALCON PRODUCTS, INC., et al.,)	
n/k/a Commercial Furniture Group, Inc.,)	
)	
Appellees.)	
_____)	
LATIGO PARTNERS, L.P.,)	Associated Case
ELLIOT MANAGEMENT, L.P.,)	No. 4:07-CV-1902 CAS
ASM CAPITAL ADVISORS, LLC,)	
REGEN CAPITAL, LLC, and)	
JORDAN CAPITAL, L.P.,)	
)	
Appellants,)	
)	
v.)	
)	
FALCON PRODUCTS, INC., et al.,)	
n/k/a Commercial Furniture Group, Inc.,)	
)	
Appellees.)	

ORDER OF CONSOLIDATION

This bankruptcy appeal is before the Court on a motion filed by appellant Falcon Creditor Trust (the “Trust”) to consolidate into this action a related bankruptcy appeal, Latigo Partners, L.P., et al. v. Falcon Products, Inc., et al., No. 4:07-CV-1902 ERW (E.D. Mo.), and to extend the deadline for initial briefing. In response, the appellee in both cases, Falcon Products, Inc., filed a statement that it does not object to consolidation. The appellants in case No. 4:07-CV-1902 ERW, Latigo Partners, L.P., Elliot Management, L.P., ASM Capital Advisors, LLC, Regen Capital, LLC, and Jordan Capital, L.P. (collectively the “Creditor Appellants”) filed a response consenting to the Trust’s

motion to consolidate, and a separate motion to consolidate the two cases, which also requests modification of the briefing schedule.¹ For the following reasons, the motions to consolidate will be granted.

The Trust asserts that both appeals involve the same order of the Bankruptcy Court, the appellants in both cases sought the same relief from the Bankruptcy Court and will seek the same relief in these appeals, the appellee is the same in both cases, and judicial economy and the risk of inconsistent determinations favor consolidating the two appeals. The Creditor Appellants concur that the same order is appealed from and the legal issues raised and relief sought in both appeals are identical, and assert that they believe it would be in the best interests of all parties and the Court to consolidate the two appeals into one.

Federal Rule of Civil Procedure 42(a), which governs consolidation, states:

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

Rule 42(a), Fed. R. Civ. P.

The Court may consolidate separate actions only when those actions involve a common question of law or fact. Enterprise Bank v. Saettle, 21 F.3d 233, 235 (8th Cir. 1994). Here, it appears that the two bankruptcy appeals involve common questions of law or fact, and therefore consolidation is appropriate to foster convenience and economy in administration of these matters.

See id.

The Trust's motion to extend the briefing deadline, relief also requested by the Creditor Appellants, will be granted. The Court will modify the Case Management Order previously issued on November 15, 2007. (See Doc. 4).

¹A footnote in the Creditor Appellants' Motion to Consolidate Appeals states, "The Court is advised that Latigo Partners, L.P. has withdrawn from the litigation. The remaining four Creditor Appellants intend to pursue the appeal." Counsel for the Creditor Appellants is advised that Latigo Partners, L.P. must formally seek to withdraw from this action, by filing an appropriate motion or notice, which shall be captioned only in the associated case, No. 4:07-CV-1902 CAS, and not in the consolidated case caption.

Accordingly,

IT IS HEREBY ORDERED that Falcon Creditor Trust's motion to consolidate related appeals and the Creditor Appellants' motion to consolidate appeals are **GRANTED**. [Docs. 2-1, 5]

IT IS FURTHER ORDERED that Latigo Partners, L.P., et al. v. Falcon Products, Inc., et al., No. 4:07-CV-1902 ERW, is consolidated into Case No. 4:07-CV-1901 CAS. Future pleadings, motions and other documents shall be filed in the instant case, as Lead Case No. 4:07-CV-1901 CAS, and shall bear a consolidated case caption as set forth above. See E.D. Mo. L.R. 4.03.

IT IS FURTHER ORDERED that Falcon Creditor Trust's motion to extend the briefing deadline is **GRANTED**. [Doc. 2-2]

IT IS FURTHER ORDERED that the Case Management Order is **modified** as follows: The appellants' initial briefs, or a consolidated brief if desired, shall be filed and served thirty (30) days after receipt of the hearing transcript. The appellee's responsive briefs shall be filed and served thirty (30) days after the initial briefs are served. The appellants' reply briefs shall be filed and served fifteen (15) days after the appellee's responsive briefs are served.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 20th day of November, 2007.